

United States Circuit Court of Appeals
FOR THE NINTH CIRCUIT

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CITIZENS NATIONAL TRUST & SAVINGS BANK OF LOS
ANGELES,

Appellant,

vs.

UNITED STATES OF AMERICA, B. Y. TAFT, and B. Y.
TAFT and ARTHUR T. EARL, as Executors of the Estate
of MARY ELEANOR TAFT, Deceased,

Appellees.

Upon Appeal from the District Court of the United States for the
Southern District of California, Central Division.

BRIEF FOR THE UNITED STATES.

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FILED

NOV 30 1942

PAUL P. O'BRIEN,
CLERK

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No. 10232.

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BRIEF FOR THE UNITED STATES.

Opinion Below.

The only previous opinion in this case is that of the District Court [R. 20-35] which is reported *sub nom. United States v. Taft et al.*, 44 F. Supp. 564.

Jurisdiction.

This appeal involves the enforcement of a federal tax lien in the amount of \$6,471.07, with interest, for taxes assessed against B. Y. Taft for the years 1926, 1927 and 1928 under the provisions of Sections 210 and 211 of the Revenue Act of 1926 and Sections 11 and 12 of the

Revenue Act of 1928. The taxpayer having refused or neglected to pay such amount, the Attorney General, at the request of the Commissioner of Internal Revenue, directed a civil action to be filed in the District Court to enforce the lien of the United States for such unpaid taxes, pursuant to Section 3678 of the Internal Revenue Code. The complaint in said suit was filed on July 25, 1941. [R. 9.] The answer of appellant was filed October 24, 1941. [R. 17.] The appellant herein, the Citizens National Trust & Savings Bank of Los Angeles, claiming an interest in the property of taxpayer, was made a party defendant pursuant to subsection (b) of Section 3678.

The judgment of the District Court in favor of the United States was entered on April 20, 1942. [R. 35.] The notice of appeal was filed July 16, 1942. [R. 46.] The jurisdiction of this Court is invoked under Section 128 of the Judicial Code and pursuant to Rule 73(b) of the Federal Rules of Civil Procedure.

Question Presented.

On December 5, 1930, and August 21, 1931, the Collector of Internal Revenue at Los Angeles received the assessment lists covering the federal income taxes of B. Y. Taft for the years 1926, 1927 and 1928. Under the provisions of Section 3186(a) of the Revised Statutes, now Section 3670 of the Internal Revenue Code, the United States thereby acquired liens upon all property and rights to property belonging to the taxpayer. Under other provisions of Section 3186(a) of the Revised Statutes, now Section 3671 of the Internal Revenue Code, these liens have continued to the present time and remain in force by reason of the taxpayer having waived all statutes of limitation which might otherwise have applied.

The question is whether these liens attach to property acquired by the taxpayer *after* December 5, 1930, and August 21, 1931, when they became perfected liens. If so, the liens of the United States are superior and paramount to the rights of the appellant under its execution lien created in 1938.

Statutes Involved.

Revised Statutes, as amended by Section 613, Revenue Act of 1928, c. 852, 45 Stat. 791:

SEC. 3186. (a) If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person. Unless another date is specifically fixed by law, the lien shall arise at the time the assessment list was received by the collector and shall continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time.

(b) Such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor until notice thereof has been filed by the collector—

* * * * *

Internal Revenue Code:

SEC. 3678. CIVIL ACTION TO ENFORCE LIEN ON PROPERTY.

(a) *Filing*.—In any case where there has been a refusal or neglect to pay any tax, and it has become necessary to seize and sell property and rights to

property, whether real or personal, to satisfy the same, whether distraint proceedings have been commenced or not, the Attorney General at the request of the Commissioner may direct a civil action to be filed, in a district court of the United States, to enforce the lien of the United States for tax upon any property and rights to property, whether real or personal, or to subject any such property and rights to property owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax.

(b) *Parties to Proceedings.*—All persons having liens upon or claiming any interest in the property or rights to property sought to be subjected as aforesaid shall be made parties to such proceedings and be brought into court. (U. S. C. 1940 ed., Title 26, Sec. 3678.)

Statement.

The facts as found by the District Court may be summarized as follows: All of the allegations of fact contained in paragraphs I-XVIII inclusive of the complaint [R. 2-7] are true and correct. [R. 36.] Among those facts are the following:

Federal income taxes were assessed against B. Y. Taft for the years 1926, 1927 and 1928. [R. 3-4.] The sums of \$1,045.50, \$4,853.40 and \$572.17 for those years remain unpaid upon such assessments. [R. 4.] The 1926 and 1927 assessment lists were received by the Collector of Internal Revenue on December 5, 1930, and the 1928 assessment list was received on August 21, 1931. [R. 5.]

The Government gave notice to and demanded payment from the taxpayer on or about December 6, 1930, January 31, 1931, August 22, 1931, and October 9, 1931. [R. 5.]

Warrants of distraint for the collection of such taxes were issued on February 14 and December 1, 1931. [R. 5.] On February 13, 1931, the Collector of Internal Revenue filed notices of liens, securing the tax assessments for 1926 and 1927, with the clerk of the District Court for the Southern District of California. [R. 5-6.] On February 18, 1931, similar notices were filed with the county recorder of Los Angeles County. [R. 6.] On December 7, 1931, a like notice of lien covering the 1928 tax assessment was recorded in the District Court for the Southern District of California and in the office of the county recorder of Los Angeles County. [R. 7.]

On November 7, 1932, B. Y. Taft and the United States entered into an agreement in writing which was signed by B. Y. Taft and the Commissioner whereby it was agreed that the amounts of \$1,057.02, \$4,853.40 and \$572.17, representing assessments of income taxes, might be collected from B. Y. Taft by distraint or by a proceeding in court begun at any time. [R. 4, 21.]

On or about March 9, 1938, the appellant, Citizens National Trust & Savings Bank, Los Angeles, obtained a judgment against B. Y. Taft in the Superior Court of Los Angeles County for the sum of \$17,829 plus interest. [R. 36-37.]

On or about March 13, 1938, one Mary Eleanor Taft died, leaving the taxpayer, B. Y. Taft, as one of her devisees and legatees entitling him to succeed to an undivided one-fourteenth interest in her estate. [R. 36.]

On or about April 9, 1938, a writ of execution under the judgment obtained by the appellant bank was levied on the interest of B. Y. Taft in the estate of Mary Eleanor Taft. [R. 37.]

On or about September 20, 1940, the Collector of Internal Revenue for the Sixth Collection District of Cali-

fornia levied a warrant of distraint upon the property and rights to property of B. Y. Taft in the possession of the executors of the estate of Mary Eleanor Taft, by making demand upon the executors for the immediate surrender of such property, rights to property, money, or credits as were determined by the court to be properly distributable to B. Y. Taft. [R. 37.] This demand was the only notice other than that imported by the recorded notices of tax liens. [R. 37.]

The appellant had no actual knowledge or notice of the liens and claim of the Government other than the notice arising from recordation of the tax liens. [R. 38.]

The appellant raises no question as to the effect of the waiver of the statute of limitations, which it is acknowledged the taxpayer, B. Y. Taft, signed on November 7, 1932. [R. 38.]

In the Government's suit to enforce its lien, the District Court held, as a matter of law, that by virtue of Section 3186(a) of the Revised Statutes, now Section 3670 of the Internal Revenue Code, the United States acquired a lien upon all property and rights to property belonging to the taxpayer as of the dates the Collector of Internal Revenue received the assessment lists covering the federal income taxes of the taxpayer for the years 1926, 1927 and 1928 [R. 38]; that under the provisions of Section 3186(a) of the Revised Statutes, now Section 3671 of the Internal Revenue Code, these tax liens have continued from the date the assessment lists were received to the present time and are still in force. [R. 38-39.]

The court also found, as a matter of law, that these liens attach to all property and rights to property acquired by the taxpayer, including the undivided one-fourteenth interest given him by the will of Mary Eleanor Taft, subsequent to the date on which the tax liens arose [R. 39];

that the Government's liens are superior and paramount to the rights of any and all defendants in that suit in or to the one-fourteenth interest of the taxpayer in the estate of Mary Eleanor Taft [R. 40]; that the taxpayer, B. Y. Taft, is indebted to the Government in the sum of \$6,471.07 together with interest thereon as allowed by law [R. 40], and that the United States is entitled to an order for the sale of the taxpayer's undivided one-fourteenth interest in and to the estate of Mary Eleanor Taft under the liens of the United States and that the proceeds of such sale be applied upon said taxes, or if the one-fourteenth interest has been reduced to cash, the executors of the estate should surrender the same to the United States of America or its Collector of Internal Revenue. [R. 40-41.]

Summary of Argument.

The statutes granting a lien to the United States for unpaid federal taxes refer broadly to "all property or property rights" of the taxpayer and state that a tax lien shall "continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time". This broad language with the provision for continuation clearly indicates a legislative intention to include "after-acquired" property of the taxpayer. Such a rule of construction is supported by considerations of sound policy and the analogous state rules as to the effect of judgments with respect to after-acquired property. The cases cited by appellant are completely distinguishable since they make no direct ruling as to after-acquired property but merely rule as to the status of the purchasers or other parties having in their possession property owned by the taxpayer at the time the tax lien is perfected and not acquired by him subsequent to that date.

ARGUMENT.

The Broad Language of Section 3186 of the Revised Statutes Granting a Lien to the Government Covers Property Acquired Subsequent to the Perfection of the Lien.

The District Court has correctly construed Section 3186 of the Revised Statutes and it is found that there is no basis for excluding after-acquired property of the taxpayer from the operation of the federal tax lien provided by these sections. Section 3186 provides that if “any person liable to pay any tax neglects or refuses to pay the same after demand, the amount * * * shall be a lien in favor of the United States upon *all* property and rights to property, whether real or personal, belonging to such person.” (*Italics supplied.*) No word in the English language is more inclusive than the word “all”. In the absence of clear intention on the part of Congress to limit its meaning, there is no reason to apply a definition foreign to accepted usage. This is particularly true where a revenue-collecting statute is the subject of interpretation.

Appellant’s argument that the lien given the United States under the provisions here in question is purely a statutory lien and is limited strictly to the right given by the language of the statute, appears to us to be in conflict with the interpretation here asked by appellant. When a statute is to be strictly construed, it is not permissible to narrow its concise language. It has been said that the policy of the statute is to reach all income subject to the federal power (*Helvering v. Stockholms etc. Bank*, 293 U. S. 84, 89). It would be a strange anomaly to give a narrow meaning to the enforcement provisions of such an Act and thus to limit its practical operation.

In *Cannon v. Nicholas*, 80 F. 2d 934, 936 (C. C. A. 10th) the Court in discussing whether an annuity contract was subject to taxes and to distraint, said:

* * * it is clear that Congress intended to subject all of a taxpayer's property except that specifically exempted to the payment of taxes.

Since the enactment of the original Section 3186 of the Revised Statutes, the word "all" has remained in the statute. There have been other changes made by Congress which we shall discuss in this brief, but no amendment made reflects any desire on the part of Congress to limit the meaning of the word "all".

Section 3186 also provides that "Unless another date is specifically fixed by law, the lien shall arise at the time the assessment list was received by the Collector and shall continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time."

This language found in the original lien provision, Section 3186, was "from the time it was due until paid". In 1879 in the Act of March 1, 1879, c. 125, 20 Stat. 327, the words "from the time it was due" were changed to "when the assessment list was received by the Collector". Congress, by the Revenue Act of 1913, for the first time, made provision for the protection of mortgages, purchasers, and judgment creditors, by providing that liens arising under the tax lien provision should not be valid against them until notice of such liens should be filed by the Collector. An amendment, not relevant here, was made as to the recording of such notices by the Revenue Act of 1925. Again, in 1928 only a slight change in this language was made by Section 613 of the Revenue Act of 1928, *supra*. The word "when" was changed to "at

the time” the assessment list was received by the Collector. The 1928 amendment also made a significant change in other language. It provided that the lien should “*continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time.*” (Italics supplied.)

It is true, the statute still made no direct mention of after-acquired property, but it described property subject to a lien as “all” property. It also provided that the lien should “continue” until the events stated in the quoted language took place. If it should be held that the federal tax lien attached only to property or property rights owned by the taxpayer at the time the lien was perfected, this language added by the 1928 Act would be robbed of virtually all meaning. Under the previous unamended section, the lien would “continue” in any event as to property owned at the time the lien was perfected. It would “continue” as to such property without explicit provision until it expired or was removed. It would hardly exist for just the moment when it was perfected. Why then a specific provision? The additional language certainly strongly suggests that the *continuation* was affirmative to the sense that the lien stood ready at any moment to attach to *all the property which the taxpayer should subsequently acquire*. It is submitted that the language “continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time” must not be read out of the statute, but must be regarded as having some definite purpose, and that the only reasonable statutory construction is that it covers any and all property which the taxpayer may own at any time until the lien is satisfied or becomes unenforceable.

Although not discussing after-acquired property, this Court in *MacKenzie v. United States*, 109 F. 2d 540, 542, said:

The statute is unambiguous and all-inclusive, and does not admit of any construction which would exclude a bank account.

We believe the statute is equally all-inclusive as to after-acquired property.

Also, as the District Court has pointed out, the long-standing departmental interpretation of these sections is entitled to great weight and should not be disregarded without cogent and persuasive reasons. *Baltzell v. Mitchell*, 3 F. 2d 428 (C. C. A. 1st); *Maryland Casualty Co. v. United States*, 251 U. S. 342. See also, *Spring City Foundry Co. v. Commissioner*, 292 U. S. 182, 189, rehearing denied 292 U. S. 613; *United States v. Kirby Lumber Co.*, 284 U. S. 1, 3. This Court has long adhered to this general principle. Cf. *Bent v. Commissioner*, 56 F. 2d 99; *Trust No. 5833, Security-First Nat. Bank v. Welch*, 54 F. 2d 323.

In connection with Section 613 of the 1928 Act, amending Section 3186 of the Revised Statutes, in regard to the release of tax liens, G. C. M. 4715, VII-2 Cum. Bull. 94 (1928) distinguishes between a *removal* and a *release* of a tax lien. This memorandum ruled that the release provision did not require the removal of the Government's lien before expiration of the statutory period of limitations because the taxpayer *might acquire other property* to which the lien might attach prior to the expiration of that period. The language of that ruling is as follows:

Assuming the fact of the foreclosed prior mortgage and all other facts to be stated, it is the opinion

of this office that the above quoted section of the law does not mean that the Government's lien against the property of a taxpayer should be released before the 6 year period governing collection has expired, for the reason that it is altogether probable that a delinquent taxpayer may at any time prior to the expiration of the statutory period of limitations become possessed of property against which the lien may attach, thus making the tax liability enforceable through the lien.

Treasury Decision 4275, VIII-2 Cum. Bull. 168 (1929), dealing with the release and discharge of liens, clearly establishes the departmental treatment of after-acquired property. This formal Treasury Decision provided in part:

Tax liabilities frequently are unenforceable in fact for the time being, due to the temporary nonpossession by the taxpayer of discoverable property or property rights. In all cases the liability for the payment of the tax continues until satisfaction of the tax in full or until the expiration of the statutory period for collection, including such period as the taxpayer by consent in writing may agree with the Commissioner shall constitute the time within which the tax assessed may lawfully be collected. Collectors should continue to investigate carefully all cases of delinquent taxpayers where notice of lien has been filed, with a view of obtaining, before the expiration of the collection period, such written consent for the extension of the collection period, *whenever it is reasonably possible that the taxpayer may, in the future, acquire property or property rights from which the tax liability may be satisfied.* (Italics supplied.)

In *Graves v. Commissioner*, 12 B. T. A. 124, 133, the Board of Tax Appeals said as to liens:

It relates back from the time of notice and demand to the time when the assessment list was received by the collector, and it attaches upon such property as the taxpayer has at the time the lien arises, that is, at the time of notice and demand, *United States v. Pacific R. R.*, 1 F. 97, and, of course, to all the property that the tax debtor subsequently acquires. (Italics supplied.)

Cf. *Minnesota Mut. Life Ins. Co. v. United States*, 47 F. 2d 942 (N. D. Texas), in which it was held that the lien is not extinguished, but that it remains as to the property to be acquired. See also Treasury Decision 4275, *supra*.

Since Treasury Decision 4275, *supra*, was promulgated, and since *Graves v. Commissioner*, *supra*, was decided, Congress has twice amended Section 3186 of the Revised Statutes without making specific provision as to after-acquired property. The rule enunciated in *National Lead Co. v. United States*, 252 U. S. 140, therefore appears to be applicable. The Supreme Court, in this last case, said (pp. 145-146):

From *Edwards v. Darby*, 12 Wheat. 206, to *Jacobs v. Prichard*, 223 U. S. 200, it has been the settled law that when uncertainty or ambiguity, such as we have here, is found in a statute great weight will be given to the contemporaneous construction by department officials, who were called upon to act under the law and to carry its provisions into effect,—especially where such construction has been long continued, as it was in this case for almost forty years before the petition was filed. *United States v. Hill*, 120 U. S. 169.

To this we must add that the Department's interpretation of the statute has had such implied approval by Congress that it should not be disturbed, particularly as applied to linseed and its products.

It should also be noted that provision is made in Section 3679 of the Code for clearing title to real estate covered by liens created under Section 3670. In several cases it has been held that a decree freeing property from a lien does not extinguish the lien. Cf. *Sherwood v. United States*, 5 F. 2d 991 (E. D. N. Y.); *Minnesota Mut. Life Ins. Co. v. United States*, *supra*. There is no purpose to these decisions in regard to keeping a lien in effect, except the purpose of enabling the lien to attach itself to after-acquired property. The decision cited must therefore be regarded as authorities in favor of the contention of the Government that the lien of the United States applies to after-acquired property.

In *United States v. Worley* (S. D. Ind.), decided March 8, 1940 (1940 C. C. H., par. 9694), the United States brought suit against the Crystal Petroleum Corporation and its officers to collect taxes due from one Worley from sums which had not been paid to him when certain amounts had been paid to officers and employees as bonuses. The District Court had previously held that such sums actually represented dividends. The court held that since those sums represented dividends, the United States was entitled to the share properly payable to the taxpayer-stockholder upon whose stock a tax lien had previously attached. The court said:

The plaintiff, the United States, holds and is entitled to a lien by reason of its notice of levy of July 8, 1932, upon 490 shares of the no par value capital stock of the defendant Crystal Flash Petroleum Cor-

poration standing in the name of the defendant Worley, *and upon all sums* of money owing to said defendant Worley from said defendant Crystal Flash Petroleum Corporation *on or after* said 8th day of July, 1932. (Italics supplied.)

This statement is also made in the court's special findings of fact:

* * * said stock ever since July 8, 1932, has been in the possession of plaintiff and by said lien the plaintiff the United States ever since has been and now is entitled to 49% of any dividends paid by said Company since that time.

Dividends certainly are not property prior to their declaration. Neither are they rights to property unless and until they are declared. They are only rights to property if they come into existence. Property or rights to property which come into existence by virtue of testamentary disposition or by the laws of descent or distribution would seem to be as fully subject to a government lien as dividends.

Although the income received from trust funds does not seem to have been discussed as after-acquired property, as such, it has been held that it is subject to a lien which attached previous to the accrual of income. Cf. *In re Rosenberg's Will*, 269 N. Y. 247; *United States v. Canfield*, 29 F. Supp. 734 (S. D. Cal.).

Appellant cites two cases as controlling the present case, though admitting that the issues involved are but "similar" to the issue in the case at bar. The first of these is *United States v. Pacific Railroad*, 1 Fed. 97 (C. C. E. D. Mo.), decided in 1880, prior to the amendment of 1913, which provided that a tax lien should no longer be

valid as to purchasers, mortgagees, or judgment creditors until notice of it had been recorded. This case was also decided prior to the 1928 amendment, which provided that the lien should “continue until the liability for such amount is satisfied or becomes unenforceable by reason of lapse of time”. In the *Pacific Railroad* case there was no question of a lien attaching to after-acquired property. The question was whether the lien attached to property which had belonged to the taxpayer and had been conveyed to *innocent purchasers* prior to any demand and perfection of the lien, and the precise point was the sufficiency of a demand. The court’s undeniable concern was with the impact of the lien rule upon an innocent purchaser, and the avoidance of secret liens. The court, in construing the language “from the time it was due until paid”, to mean, “at the time such demand is made”, said (p. 100):

By this construction the lien, when it once attaches, relates back to the time when the tax was due, but it does not attach to the property transferred to innocent purchasers prior to demand. This view also harmonizes with the general policy of the law relating to land titles, which is to protect the citizen against loss from secret liens, not disclosed by any public record nor ascertainable by due diligence.

In the absence of any statutory protection against secret liens, this decision was unquestionably made in the interest of justice. The court said (p. 99):

* * * the statute should not be construed as subjecting property which has been conveyed to innocent purchasers, prior to any demand, unless this is its plain meaning.

In spite of the inequities which the court was attempting to prevent, we believe the decision in that case was incorrect in so far as it concluded that it was not the purpose of that statute to subject to the lien, property in the hands of purchasers who had no knowledge of an existing lien. Cf. *United States v. Snyder*, 149 U. S. 210; *United States v. Curry*, 201 Fed. 371 (Md.). And we believe we find support for that view in this court's decision in *MacKenzie v. United States*, *supra*, wherein it is said (p. 542):

Decisions under the Act prior to 1913 repeatedly held that no third parties, not even innocent purchasers for value, were protected under any circumstances from an unrecorded tax lien. Citing *United States v. Snyder*, 149 U. S. 210.

However, since the *Pacific Railroad* case did not involve after-acquired property, the decision can be nothing more than *dictum* as to such property. The case at bar involves neither innocent purchasers nor property which the taxpayer had owned and disposed of by any method; and, if it did, there is now statutory provision for the protection of purchasers and transferees. In view of these facts, there is no possible basis for referring to a decision of the vintage of 1880.

The second case cited by appellant as controlling is *United States v. Long Island Drug Co.*, 115 F. 2d 983 (C. C. A. 2d). The question in this case was whether the Long Island Drug Company was liable under Section 3710 of the Internal Revenue Code for failure to surrender sums of money allegedly due the taxpayer. It was found by the court that, at the time the collector served its first notice of lien and demand on the Long Island Drug Company, the company owed the taxpayer nothing.

Instead, the taxpayer was indebted to the company. A second demand was made upon the company and by that time the taxpayer and the company had entered into a contract whereby any indebtedness of the taxpayer as surety might be applied to sums coming due as salary of the taxpayer. At the time this demand was made, there was indebtedness of the taxpayer which had been set off pursuant to the agreement.

The court seemed to adopt the *dictum* set forth in the *United States v. Pacific Railroad, supra*, and said (p. 986): "Rights which do not exist at the time of demand upon the taxpayer are not subject to any lien." But since the *Long Island Drug Company* case arose under Section 3710 of the Internal Revenue Code, the basic question was whether the company was in possession of funds belonging to the taxpayer at the time notice of lien was served upon the company. The court found that the company did not have property of the taxpayer in its possession. This case, then, is not controlling here. Cf. *United States v. Warren R. Co.*, 127 F. 2d 134 (C. C. A. 2d).

The District Court, in the case at bar, having in mind the *Long Island Drug* opinion and its approval of the *Pacific Railroad* case, said [R. 27], "but the opinion discloses that the court failed to consider that the reason on which this decision is predicated ceased to exist when Section 3186 of the Rev. Stat. was amended so as to require the recording of notice to render the lien valid as against innocent purchasers."

We respectfully submit that neither of the two cases just discussed is determinative of the present case: First, for the reason that neither of them dealt with the specific question of property unquestionably held by the taxpayer, but acquired by him subsequent to the perfection of a tax lien; and second, for the reason that neither of them had under consideration the amended statutes which are applicable here.

While there may not be exact similarity between a judgment and a federal tax lien, there is certainly a fair analogy. The District Court was properly impressed by the analogy. In *Bull v. United States*, 295 U. S. 247, it was held that a federal tax lien has the effect of a judgment. The District Court, in the case at bar, developing its reasoning from this analogy, has pointed out that the great weight of authority holds in favor of the view that judgments are liens on after-acquired property where the statute fails to provide specifically for the inclusion of such property under the lien. It is submitted that this reasoning of the state courts is controlling in the case at bar. Cf. *Coad v. Cowhick*, 9 Wyo. 316; *Steele v. Taylor*, 1 Minn. 274; *Babcock v. Jones*, 15 Kans. 296; *Ralston v. Field*, 32 Ga. 453; *Trustees R. E. Bank v. Watson & Hubbard*, 13 Ark. 74; *Atlas Portland Cement Co. v. Fox*, 265 Fed. 444-446 (App. D. C.); *Colt v. Du Bois*, 7 Neb. 391; 15 R. C. L. 802.

Conclusion.

The Government has a tax lien upon all of the taxpayer's property and rights to property, which lien arose at the time the assessment list was received by the collector. The lien was perfected in 1930 and 1931. This lien attached to "all" of the taxpayer's property, including but not excluding property which he acquired thereafter. The taxpayer's liability for the amount of taxes assessed has not been satisfied, nor has it become unenforceable by reason of lapse of time. The liability, therefore, continues and will continue until such time as it is satisfied or is unenforceable. The lien is a continuing lien and attaches to the property which the taxpayer inherited in 1938.

Respectfully submitted,

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November, 1942.